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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/087,364	03/04/2002	Stephen Elston		6671

7590 04/19/2005  
CARMAN WENKOFF  
ONTAIN CORPORATION  
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BELLEVUE, WA 98004

EXAMINER
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AUGUSTIN, EVENS J

ART UNIT	PAPER NUMBER
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3621

DATE MAILED: 04/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/087,364

Applicant(s)

ELSTON ET AL.

Examiner

Evans Augustin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 March 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-22 is/are rejected.
- 7) ☒ Claim(s) 11 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

*Status of Claims*

1. Claims 1-22 have been examined.

*Claim Objections*

2. Claim 11 is objected to under 37 CFR 1.75 as being in improper because it does not refer back to the preceding claims in the alternative only. (See MPEP section 608.1(n))

*Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-11 and 15-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over O'Leary et al. (U.S. 6,609,113), in view of Walker et al. (U.S. 6,381,582).

As per claims 1-11 and 15-21, O'Leary et al. discloses a method and system for processing Internet payments using the electronic funds transfer network. The computer system/method comprises of the following:

- Customer establishing an account by registering and exchanging identifying information such as credit card numbers, debit card numbers, shipping addresses, alternate shipping addresses, frequent flyer accounts, membership discounts (e.g., AAA, AARP), loyalty programs and e-mail addresses, captured through a browser (column 10, lines 1-4, column 9, 4-6)

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- The account does not have to be activated until the customer wishes to buy something (column 15, lines 28-30). For activation, the system does not need any additional information from the user except an identifier and password (column 19, lines 15-20)
- Transmitting the initial order to the merchant (column 15, lines 45-65)
- The invention by O'Leary and al. allows consumers to conduct online shopping without having to provide any personal confidential financial information to unknown merchants (column 18, lines 53-55)
- O'Leary teaches that a consumer can electronically pay for purchases made on the Internet, such as credit cards, off-line debit cards, online debit cards, digital cash, and smart cards (column 1, lines 23-26)
- Giving the customer the established remote account (column 26, lines 22-60)
- Capturing transaction details such as transaction dollar amount, description and transaction ID (column 19, lines 45-47)
- The system having the ability to store, review and sort transaction history (column 14, line 20). This made can be used to provide lists of links to a user's favorite shopping sites (customer preference) (column 15, lines 30-31)
- Merchants having server/servers with information pertaining to a particular merchant (column 13, lines 25-46)

O'Leary et al. did not explicitly describe a method/system in which telephone number is being used as an identifier for the customer. However, Walker et al. describes a method/system in which telephone number is used as customer identifier (column 9, lines 4-6). Therefore, it would have been obvious for one of ordinary skill in the art at the time of the applicant's

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invention to construct a system that would employ telephone number as customer identifier. It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to use telephone number as customer identifier because it is a unique number that does not reveal personal information that may potentially be damaging financially to the customer in case of fraud.

5. Claims 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over O'Leary et al. (U.S 6,609,113), in view of Fox et al. (U.S 5,790,677).

As per claims 12-14, O'Leary et al.'s invention is disclosed above.

O'Leary et al. did not explicitly describe a method/system in which the customer is authenticated using digital signature. However, Fox et al. describe a method/system in which commerce document and commerce instrument are being authenticated with a digital signature of the originating participant prior to sending them to the first recipient participant (column 34, lines 47-51). Therefore, it would have been obvious for one of ordinary skill in the art at the time of the applicant's invention to construct a system/method that uses digital signature because it would provide for data integrity/authentication, non-repudiation, date-time stamping, speed and accuracy, confidentiality and automatic record keeping.

6. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over O'Leary et al. (U.S 6,609,113), in view of Geerlings (U.S 5,956,693).

As per claim 22, O'Leary et al.'s invention is disclosed above.

O'Leary et al. did not explicitly describe a method/system in which the customer information came from a marketing database. However, Geerlings describes a system in

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which a marketing database is used for customer information (column 5, lines 58-67, column 6, lines 1-12). Therefore, it would have been obvious for one of ordinary skill in the art at the time of the applicant's invention to construct a system/method that uses information from a marketing database because such databases contain market segmentation information based on a combination of static data (demographics, psychographics, etc.) and dynamic data (behavior) (column 10, lines 38-41).

### *Conclusion*

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
  - Walker et al. (US 6249772)
  - Thomas et al. (US 6173272)
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Evens Augustin whose telephone number is 703-305-0267. The examiner can normally be reached on Monday thru Friday 8 to 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jim Trammel can be reached on 703-305-9768. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any response to this action should be mailed to:

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

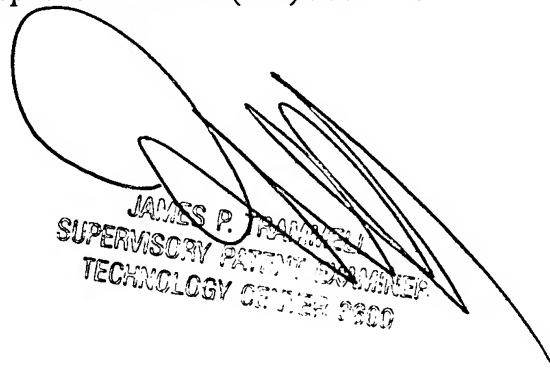
Or faxed to:

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(703) 305 – 5532 (for formal communications intended for entry and after-final communications), or (703) 746-5532 (for informal or draft communications, please label “PROPOSED” or “DRAFT”)

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-1113.

Evens J. Augustin  
April 11, 2005  
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JAMES P. FARRELL  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600